

1 DAVID J. BECHT, SBN 104208
2 MICHAEL SACHS, SBN 235048
3 ADAMS | NYE | TRAPANI | BECHT LLP
222 Kearny Street, Seventh Floor
San Francisco, California 94108-4521
Telephone: (415) 982-8955
4 Facsimile: (415) 982-2042
Email: msachs@adamsnye.com

5 Attorneys for Plaintiff
6 KATHLEEN IMMEDIATO

7
8 JOSEPH P. RUSSONIELLO (CSBN 44332)
9 United States Attorney
JOANN M. SWANSON (CSBN 88143)
10 Chief, Civil Division
ELLEN M. FITZGERALD (NY 2408805)
11 Assistant United States Attorney
450 Golden Gate Avenue, 9th Floor
12 San Francisco, California 94102-3495
Telephone: (415) 436-7314
13 Facsimile: (415) 436-6748
Email: ellen.fitzgerald@usdoj.gov

14 Attorneys for Defendant United States of America
15

16 **IN THE UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO**
18

19 KATHLEEN IMMEDIATO,

20 Plaintiff,

21 vs.

22 UNITED STATES OF AMERICA,

23 Defendant.
24

No. CV-07-03008 MMC

**STIPULATION AND JOINT MOTION
TO EXTEND DEADLINES;
[PROPOSED] ORDER**

25 In accordance with Local Rule 6-2, Plaintiff Kathleen Immediato (“Plaintiff”) and Defendant
26 the United States of America (“Defendant”) hereby stipulate and jointly move this Court for a brief
27 extension of the expert disclosure deadline. This request will cause **no** change to trial date or pretrial
28 conference date previously set for this case.

As grounds for this motion the parties state the following:

1. This is a claim for Professional Negligence, Wrongful Death, Survival and Elder Abuse related to Decedent Ralph Immediato's care at the Martinez Outpatient Clinic and Center for Rehabilitation and Extended Care ("CREC").

2. Fact discovery was completed on May 1, 2008 in accordance with the Court's previous ruling.

3. The Parties participated in court ordered mediation on March 31, 2008, before John Barg. While the case did not resolve at that time, the parties made significant progress towards a potential settlement of this matter.

4. On May 5, 2008, the parties jointly moved that this Court assign this case to a settlement conference before a Magistrate Judge and extend expert discovery deadlines and the trial date of this matter.

5. On May 8, 2008, this Court granted the parties motion, setting this matter before Magistrate Chen for settlement conference and ordering that all dates, beginning with the disclosure of Plaintiff's experts, be set one month after the settlement conference.

6. The parties scheduled a settlement conference with Judge Chen to take place on July 24, 2008.

7. On July 21, 2008, Defendant's counsel first learned that one of its counsel necessary for the settlement of this matter would be unavailable for settlement conference on July 24, 2008. Defendant's counsel then informed Plaintiff's counsel.

8. After consulting with Magistrate Chen's clerk, the parties filed a stipulation rescheduling the settlement conference.

9. On July 24, 2008, Magistrate Chen signed an Order rescheduling the settlement conference in this matter to August 25, 2008.

10. Plaintiff is currently required to disclose experts on August 8, 2008. Defendant is required to designate rebuttal experts on August 29, 2008. Expert discovery is set to close October 3, 2008.

11. In preparation for her expert disclosure, Plaintiff will incur substantial costs.

12. Given the relative value of this case, both parties agree that once the Plaintiff incurs these expenses, a settlement of this matter is highly unlikely.

13. Both parties feel that as this case presently stands there is a high probability that it will settle during the settlement conference currently scheduled before Magistrate Chen.

14. The parties ask that the Court grant the parties a brief extension to the deadlines for disclosure of experts and the expert discovery cut-off.

15. This extension will cause no change to the deadline for filing dispositive motions, the further status conference, the pretrial conference, or the trial date. This is the third request for an extension in this case.

Therefore, the parties request that the Court change the dates for expert disclosure and expert discovery cut-off as follows:

- Expert Disclosure For Both Parties: September 22, 2008
- Expert Discovery Cut-Off: October 20, 2008

This extension will allow the parties to continue to attempt settlement of this matter, without Plaintiff incurring substantial costs which will make settlement less likely. Additionally, there will be no change to the trial date.

Accordingly, the parties respectfully request that the Court grant their Stipulation and Joint Motion to Extend Deadlines.

Dated: July 29, 2008

ADAMS | NYE | TRAPANI | BECHT LLP

/s/
By: _____
MICHAEL SACHS
Attorneys for Plaintiff
KATHLEEN IMMEDIATO

Dated: July 29, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
By: _____
ELLEN M. FITZGERALD
Assistant United States Attorney
Attorneys for Defendant

ORDER

PURSUANT TO STIPULATION, **IT IS SO ORDERED.**

Dated: July _____, 2008

THE HONORABLE Maxine M. Chesney
United States District Judge